

PTO/SB/64 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT  
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)

A882688US

First named inventor: Thomas Stockmann

Application No.: 09/873,243

Art Unit: 3652

Filed: June 5, 2001

Examiner: Tran, Thuy Van

Title: HYDRAULIC PLATFORM LIFT INCORPORATING POSITIVE DISPLACEMENT VALVE, AND POSITIVE DISPLACEMENT VALVE  
FOR HYDRAULIC PLATFORM LIFT

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX (703) 872-9306

NOTE: If information or assistance is needed in completing this form, please contact Petitions  
Information at (703) 305-9282.The above-identified application became abandoned for failure to file a timely and proper reply to a notice or  
action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration  
date of the period set for reply in the office notice or action plus an extensions of time actually obtained.**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications  
filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

**1. Petition fee**☒ Small entity-fee \$ 750.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.☐ Other than small entity - fee \$ \_\_\_\_\_ (37 CFR 1.17(m))**2. Reply and/or fee**A. The reply and/or fee to the above-noted Office action in  
the form of response to office action (identify type of reply):

- ☐ has been filed previously on \_\_\_\_\_.
- ☒ is enclosed herewith.

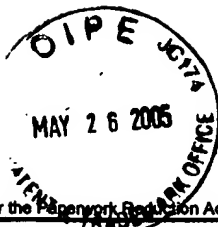
B. The issue fee and publication fee (if applicable) of \$ \_\_\_\_\_.

- ☐ has been paid previously on \_\_\_\_\_.
- ☐ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the  
USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to  
complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any  
comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer,  
U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED  
FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



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- ☐ Other than small entity - fee \$ \_\_\_\_\_ (37 CFR 1.17(m))

**2. Reply and/or fee**

- A. The reply and/or fee to the above-noted Office action in  
the form of response to office action (identify type of reply):

- ☐ has been filed previously on \_\_\_\_\_.
- ☒ is enclosed herewith.

- B. The issue fee and publication fee (if applicable) of \$ \_\_\_\_\_.

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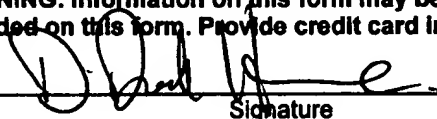
If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

## 3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

 May 26, 2005  
Signature Date

D. Doak Horne 33,105  
Typed or printed name Registration Number, if applicable

Suite 1400, 700 - 2nd Street S.W. (403) 298-1994  
Address Telephone Number

Calgary, Alberta, Canada T2P 4V5  
Address

Enclosures: ☒ Fee Payment Please charge our deposit account 502956

☒ Reply

☐ Terminal Disclaimer Form

☒ Additional sheets containing statements establishing unintentional delay

☐ Other: \_\_\_\_\_

**CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]**

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (703) 872-9306.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Typed or printed name of person signing certificate

I received the Examiner's Detailed Action dated February 21, 2003, advising that the previous Response filed October 29, 2002 was non-responsive due to failure to elect.

Upon review of such Office Action, I noted that the Examiner's allegation that the applicant had not previously elected was completely unfounded – the Applicant's election having already originally been made in the Applicant's response filed October 29, 2002 (copy attached) where it is clearly stated (see bottom of page 4 and top of page 5) as follows:

"While it is submitted that the above amendments are sufficient to overcome the examiner's election requirements, pursuant to 37 C.F.R. 1.143, in the event the examiner should refuse to withdraw the election requirement, the Applicant elects, on a without-prejudice basis, claims 13-20 for further prosecution."

I called Examiner Tran on March 11, 2003, as I believed the Action was issued in error. Mr. Tran agreed that the Action requiring restriction was in error, and also agreed to examine ALL claims to see if restriction is still needed. If not, he would submit an Action on ALL claims. In this response, I enclose, for your review, a copy of my memo-to-file and hand written note from which the memo-to-file was prepared, which I made immediately after speaking to Examiner Tran on Tuesday, March 11, 2003.

In view of the above and in view of Examiner Tran's statement to me, I did not believe that I needed to respond to the Action dated February 21, 2003. It was not until October 6, 2003 when I received an Abandonment notice that I was informed that a response to the Action dated February 21, 2003 should have been filed.

Thereafter, I submitted on November 4, 2003 a Petition to Revive, on the basis that same was unavoidable. Enclosed with same was the response of October 29, 2002.

The Petition was dismissed on November 4, 2004 (a notice of which was received November 23, 2004), on the basis that the response of October 29, 2002 was non-responsive, as not including a copy of the amended claims, and that the Voluntary Amendment submitted May 11, 2004 did not likewise re-iterate the election.

After discussion with Supervisory Examiner Eileen Lillis on November 24, 2004, a renewed Petition to Re-instate was filed, with (1) a copy of amended claims; (2) a notice of the election, and (3) an advisal that the amended claims all read on the election submitted on claims 13-20 such filed, via facsimile, on December 8, 2004.

This renewed Petition was dismissed on April 27, 2005, as my arguments on the basis of unavoidable were not satisfactory to the Director.

Therefore, in view of the above, and in accordance with 37 CFR 1.137 (b), I believe it is clear that the entire "delay" in responding to the Action dated February 21, 2003 is unintentional.

DATED at Calgary, Alberta, this 26<sup>th</sup> day of May, 2005.

  
D. Doak Home  
Registration No. 33, 105

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Assistant (403) 298-1997  
doak.home@gowlings.com

## Memorandum

To File  
From D. Doak Home LLB, P. Eng.  
Date March 11, 2003  
Re Telephone conversation with Examiner Tran  
File Number A882688US

He agreed that Office Action requiring restriction was in Error.

He agreed to examine ALL claims to see if restriction still needed, and if not, would submit an office action in all claims.

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MEMO TO: FILE  
The Examiner Tran Tues, Mar 11/03.

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